

AMENDED IN ASSEMBLY MAY 31, 2006

AMENDED IN SENATE APRIL 19, 2006

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1818

Introduced by Senator Alarcon
(Coauthor: Senator Florez)

February 24, 2006

An act to add Section 801 to the Government Code, relating to attorney's fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 1818, as amended, Alarcon. Attorney's fees.

Existing law provides that in any civil action to appeal or review the award, finding, or other determination of any administrative proceeding, except as specified, where it is shown that the award, finding, or other determination of the proceeding was the result of arbitrary or capricious action or conduct by a public entity or an officer thereof in his or her official capacity, the complainant, if he or she prevails in the civil action, may collect reasonable attorney's fees, as specified.

This bill would provide that in any civil action brought by a big box retailer, as defined, to challenge the validity or application of an ordinance, rule, regulation, or initiative measure regulating zoning that is adopted by any local government entity, the court shall award attorney's fees and other litigation expenses to the local governmental entity if the local governmental entity is the prevailing party and the court finds that the big box retailer acted in an arbitrary or capricious manner in bringing the action. *The bill would provide that these*

provisions shall apply to any litigation pending on or after April 19, 2006.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 801 is added to the Government Code,
2 to read:
3 801. (a) In any civil action brought by a big box retailer to
4 challenge the validity or application of an ordinance, rule,
5 regulation, or initiative measure regulating zoning that is adopted
6 by any local government entity, the court shall award attorney's
7 fees and other litigation expenses to the local governmental entity
8 if both of the following apply:
9 (1) The local governmental entity is the prevailing party.
10 (2) The court finds that the big box retailer acted in an
11 arbitrary or capricious manner in bringing the action.
12 (b) For purposes of this section, "big box retailer" has the
13 same meaning as defined in Section 53084.
14 (c) *This section shall apply to any litigation pending on or*
15 *after April 19, 2006.*